

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>DAVID B. CORNEAL and SANDRA</b>	:	<b>CIVIL NO. 1:CV-00-1192</b>
<b>Y. CORNEAL,</b>	:	
	:	
<b>Plaintiffs</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>JACKSON TOWNSHIP, Huntingdon</b>	:	
<b>County, Pennsylvania, <i>et al.</i>,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

The background of this order is as follows: On November 6, 2001, Plaintiffs filed an amended complaint in the captioned matter. Defendants, however, never filed an answer to the amended complaint. On February 20, 2003, Defendants filed a motion for leave to file an answer to the amended complaint *nunc pro tunc*. Defendants, however, failed to file a brief in support of that motion. Under Local Rule 7.5, “[u]nless otherwise ordered by the court, if a supporting brief is not filed within the time provided in this rule such motion shall be deemed withdrawn.” The only exceptions to this rule are (1) motions for enlargement of time, (2) motions that have concurrence of opposing counsel, and (3) motions for appointment of counsel. *Id.*

Defendants’ motion does not fit within any of these exceptions. It is obviously not a motion for appointment of counsel, and Defendants have not received Plaintiffs’ concurrence in the motion. Defendants’ motion is not a motion for enlargement of time, but rather a motion for leave to file the answer out of time. Under Federal Rule of Civil Procedure 12(a), Defendants should have filed their answer within twenty days after Plaintiffs’ filing of the amended complaint. In this

case, Plaintiffs filed their amended complaint on November 6, 2001. Accordingly, Defendants' should have filed their answer or a motion for an extension of time, no later than November 29, 2001. Because Defendants did not file the instant motion until February 20, 2003, their motion can only be classified as a motion for leave to file out of time. Such motions do not fall within any of Local Rule 7.5's exceptions. Therefore, Defendants should have filed a brief in support of that motion no later than March 10, 2003. Because Defendants failed to file a brief in support of their motion, in accordance with Local Rule 7.5, the motion is deemed withdrawn. **IT IS SO ORDERED.**

s/Sylvia H. Rambo  
SYLVIA H. RAMBO  
United States District Judge

Dated: March 14, 2003.